



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161291

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FS benefits effective September 1, 2014 for failing to provide verification.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Simone Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:


Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received monthly FS benefits until September 1, 2014.

3. On July 14, 2014 the Office of the Inspector General (OIG) received an anonymous report that Petitioner's daughter had not been living with her for over two months, that Petitioner works for cash, and that Petitioner receives child support from Illinois.
4. OIG attempted to investigate the anonymous tip by sending a notice of verification request to Petitioner on July 16, 2014. The notice stated that verification was due by July 25, 2014. Petitioner did not provide the requested verification.
5. On July 28, 2014 the agency sent Petitioner a notice stating that her FS benefits would be ending effective September 1, 2014 because she had not provided the verification requested. The notice was sent to Petitioner's correct address.
6. When Petitioner did not receive her September FS benefits, Petitioner contacted the agency. Petitioner later provided proof that her daughter lived with her and that she was receiving out of state child support. Petitioner maintains that she always told the agency about out of state child support.
7. Petitioner reapplied for FS on October 8, 2014, and now receives \$357 in monthly FS benefits. That amount was prorated for October. This was the same amount of monthly FS Petitioner received before her FS benefits were discontinued.

DISCUSSION

In this case the issue is the discontinuance of FS effective September 1, 2014. Local agencies may request verification of other factors if information provided at application, review, or reported change is questionable, unclear, or incomplete and would have an effect on *FS*  eligibility or benefit level. *FoodShare Wisconsin Handbook (FSWH)*, § 1.2.5, viewable online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>, (last viewed November 2014).

Some examples of circumstances that may require further verification are:

1. Household Composition
2. Claim of Separate Food Unit
3. School Enrollment
4. Household expenses exceed income
5. Pay stub name differs from employed FS Unit member's name
6. Medical expenses that are unusually high or exceed monthly income
7. Returned mail such as "undeliverable" or "not known at this address"
8. Resolving any identified Error Prone Profiles (EPPs)

If an agency receive conflicting information, verification must be requested to clarify the circumstances. *Id.* I note that this verification requirement for questionable items is only at the time of application, review or reported change. *Id.*

In this case the verification was requested as the result of an anonymous tip that proved to be false. The item was not questionable at the time of application, review, and Petitioner had not reported any changes. An anonymous person reported a tip. There was no way for OIG to determine the source of the anonymous tip or how this tipster acquired information that proved to be false. I do not consider this anonymous tip to be a reported change. This did not occur during the application or review.

When the agency received this anonymous tip, the agency incorrectly sent a verification notice to Petitioner. This anonymous tip should not have required Petitioner to verify her household composition and child support. She had already disclosed this information to the agency. It is important to note that when Petitioner provided the requested information, the agency learned that she was entitled to the same

amount of monthly FS benefits that she had been receiving. Petitioner testified that she did not get the verification request. Had she received that she would have provided the verification, and her benefits would not have been discontinued. I find Petitioner's statements credible.

CONCLUSIONS OF LAW

Under these specific facts, I find that the uncorroborated, false tip should not have triggered a change report requiring Petitioner to provide verification. Thus failing to provide verification was not a sufficient reason to discontinue Petitioner's FS benefits effective September 1, 2014.

THEREFORE, it is

ORDERED

That this case is remanded to the agency to issue FS benefits for September 1, 2014 through October 7, 2014. The agency has 10 days to comply with this order.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

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The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of November, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 10, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability